

Calendar No. 591

105TH CONGRESS
2^D SESSION

S. 730

[Report No. 105-339]

To make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll.

IN THE SENATE OF THE UNITED STATES

MAY 8, 1997

Mr. KEMPTHORNE (for himself, Mr. CRAIG, Mr. TORRICELLI, Mr. THOMAS, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

SEPTEMBER 21, 1998

Reported by Mr. SPECTER, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. RETROACTIVITY OF MEDAL OF HONOR SPE-**
 2 **CIAL PENSION.**

3 (a) **ENTITLEMENT.**—In the case of Vernon J. Baker,
 4 Edward A. Carter, Junior, and Charles L. Thomas, who
 5 were awarded the Medal of Honor pursuant to section 561
 6 of Public Law 104–201 (110 Stat. 2529) and whose
 7 names have been entered and recorded on the Army, Navy,
 8 Air Force, and Coast Guard Medal of Honor Roll, the en-
 9 titlement of those persons to the special pension provided
 10 under section 1562 of title 38, United States Code (and
 11 antecedent provisions of law), shall be effective as follows:

12 (1) In the case of Vernon J. Baker, for months
 13 that begin after April 1945.

14 (2) In the case of Edward A. Carter, Junior,
 15 for months that begin after March 1945.

16 (3) In the case of Charles L. Thomas, for
 17 months that begin after December 1944.

18 (b) **AMOUNT.**—The amount of the special pension
 19 payable under subsection (a) for a month beginning before
 20 the date of the enactment of this Act shall be the amount
 21 of the special pension provided by law for that month for
 22 persons entered and recorded on the Army, Navy, Air
 23 Force, and Coast Guard Medal of Honor Roll (or an ante-
 24 cedent Medal of Honor Roll required by law).

25 (c) **PAYMENT TO NEXT OF KIN.**—In the case of a
 26 person referred to in subsection (a) who died before receiv-

1 ing full payment of the pension pursuant to this section;
 2 the Secretary of Veterans Affairs shall pay the total
 3 amount of the accrued pension; upon receipt of application
 4 for payment within one year after the date of the enact-
 5 ment of this Act, to the deceased person's spouse or, if
 6 there is no surviving spouse, then to the deceased person's
 7 children, per stirpes, in equal shares.

8 **SECTION 1. INCREASE IN MEDAL OF HONOR SPECIAL PEN-**
 9 **SION.**

10 (a) *INCREASE.*—Section 1562(a) of title 38, United
 11 States Code, is amended by striking out “\$400” and insert-
 12 ing in lieu thereof “\$600”.

13 (b) *ANNUAL ADJUSTMENT.*—That section is further
 14 amended—

15 (1) by inserting “(1)” before “The Secretary”;
 16 and

17 (2) by adding at the end the following:

18 “(2) *Effective as of December 1 each year, the Sec-*
 19 *retary shall increase the amount of monthly special pension*
 20 *payable under this subsection as of November 30 of such*
 21 *year by the same percentage that benefit amounts payable*
 22 *under title II of the Social Security Act (42 U.S.C. 401*
 23 *et seq.) are increased effective December 1 of such year as*
 24 *a result of a determination under section 215(i) of that Act*
 25 *(42 U.S.C. 415(i)).”.*

1 (c) *EFFECTIVE DATE.*—(1) *Except as provided in*
 2 *paragraph (2), the amendments made by this section shall*
 3 *take effect on the date of enactment of this Act and shall*
 4 *apply to months that begin on or after that date.*

5 (2) *The Secretary of Veterans Affairs shall not make*
 6 *any adjustment under section 1562(a)(2) of title 38, United*
 7 *States Code, as added by subsection (b), in 1998.*

8 **SEC. 2. ACCELERATED DEATH BENEFIT FOR**
 9 **SERVICEMEMBERS' GROUP LIFE INSURANCE**
 10 **AND VETERANS' GROUP LIFE INSURANCE**
 11 **PARTICIPANTS.**

12 (a) *IN GENERAL.*—(1) *Subchapter III of chapter 19*
 13 *of title 38, United States Code, is amended by adding at*
 14 *the end the following:*

15 **“§ 1980. Option to receive accelerated death benefit**

16 “(a) *For the purpose of this section, a person shall be*
 17 *considered to be terminally ill if the person has a medical*
 18 *prognosis such that the life expectancy of the person is less*
 19 *than a period prescribed in regulations by the Secretary.*
 20 *The maximum length of such period may not exceed 12*
 21 *months.*

22 “(b)(1) *The Secretary shall prescribe regulations under*
 23 *which any terminally ill person insured under*
 24 *Servicemembers' Group Life Insurance or Veterans' Group*
 25 *Life Insurance may elect to receive in a lump-sum payment*

1 a portion of the face value of the insurance as an accelerated
 2 death benefit reduced by an amount necessary to assure that
 3 there is no increase in the actuarial value of the benefit
 4 paid, as determined in regulations issued by the Secretary.

5 “(2) The Secretary shall prescribe by regulation the
 6 maximum amount of the accelerated death benefit available
 7 under this section that the Secretary finds to be administra-
 8 tively practicable and actuarially sound, but in no event
 9 shall the amount of the benefit exceed the amount equal to
 10 50 percent of the face value of the person’s insurance in
 11 force on the date the election of the person to receive the
 12 benefit is approved.

13 “(3) A person making an election under this section
 14 may elect to receive an amount that is less than the maxi-
 15 mum prescribed by the Secretary under paragraph (2). The
 16 Secretary shall prescribe in regulations the increments in
 17 which a reduced amount under this paragraph may be
 18 elected.

19 “(c) The portion of the face value of insurance which
 20 is not paid in a lump sum as an accelerated death benefit
 21 under this section shall remain payable in accordance with
 22 the provisions of this chapter.

23 “(d) Deductions under section 1969 of this title and
 24 premiums under section 1977(c) of this title shall be re-
 25 duced, in a manner consistent with the percentage reduction

1 *in the face value of the insurance as a result of payment*
 2 *of an accelerated death benefit under this section, effective*
 3 *with respect to any amounts which would otherwise become*
 4 *due on or after the date of payment under this section.*

5 “(e) *The regulations under this section shall include*
 6 *provisions regarding—*

7 “(1) *the form and manner in which an applica-*
 8 *tion for an election under this section shall be made;*
 9 *and*

10 “(2) *the procedures under which any such appli-*
 11 *cation shall be considered.*

12 “(f)(1) *An election to receive a benefit under this sec-*
 13 *tion shall be irrevocable.*

14 “(2) *A person may not make more than one election*
 15 *under this section, even if the election of the person is to*
 16 *receive less than the maximum amount of the benefit avail-*
 17 *able to the person under this section.*

18 “(g) *If a person insured under Servicemembers’ Group*
 19 *Life Insurance elects to receive a benefit under this section*
 20 *and the person’s Servicemembers’ Group Life Insurance is*
 21 *thereafter converted to Veterans’ Group Life Insurance as*
 22 *provided in section 1968(b) of this title, the amount of the*
 23 *benefit paid under this section shall reduce the amount of*
 24 *Veterans’ Group Life Insurance available to the person*
 25 *under section 1977(a) of this title.*

1 “(h) Notwithstanding any other provision of law, the
 2 amount of the accelerated death benefit received by a person
 3 under this section shall not be considered income or re-
 4 sources for purposes of determining eligibility for or the
 5 amount of benefits under any Federal or federally-assisted
 6 program.”.

7 (2) The table of sections at the beginning of chapter
 8 19, title 38, United States Code, is amended by inserting
 9 after the item relating to section 1979 the following:

“1980. Option to receive accelerated death benefit.”.

10 (b) CONFORMING AMENDMENTS.—Section 1970(g) of
 11 title 38, United States Code, is amended in the first sen-
 12 tence—

13 (1) by striking out “Payments of benefits” and
 14 inserting in lieu thereof “Any payments”; and

15 (2) by inserting “an insured or” after “or on ac-
 16 count of,”.

17 (c) EFFECTIVE DATE.—The amendments made by this
 18 section shall take effect 90 days after the date of enactment
 19 of this Act.

20 (d) REGULATIONS.—The Secretary of Veterans Affairs
 21 shall prescribe the regulations required by section 1980 of
 22 title 38, United States Code, as added by subsection (a),
 23 in accordance with the provisions of section 553 of title 5,
 24 United States Code.

1 **SEC. 3. COMMEMORATION OF INDIVIDUALS WHOSE RE-**
 2 **MAINS ARE UNAVAILABLE FOR INTERMENT.**

3 (a) *HEADSTONES OR MARKERS FOR CERTAIN MEM-*
 4 *BERS OF THE ARMED FORCES AND SPOUSES.*—Subsection
 5 (b) of section 2306 of title 38, United States Code, is amend-
 6 ed—

7 (1) in the matter preceding paragraph (1), by
 8 striking out “any veteran—” and inserting in lieu
 9 thereof “any veteran, any individual who dies in the
 10 active military, naval, or air service, and any spouse
 11 or surviving spouse (including an unremarried sur-
 12 viving spouse whose subsequent remarriage was ter-
 13 minated by death or divorce) of a veteran or any such
 14 individual—”; and

15 (2) in paragraph (2) by striking out “the veter-
 16 an’s” and inserting in lieu thereof “the individual’s”.

17 (b) *ALTERNATIVE COMMEMORATION FOR CERTAIN*
 18 *SPOUSES.*—That section is further amended by adding at
 19 the end the following:

20 “(e) Where the Secretary has furnished a memorial
 21 headstone or marker under subsection (b) for purposes of
 22 commemorating a veteran, or has furnished a headstone or
 23 marker for the unmarked grave of a veteran under sub-
 24 section (a), the Secretary shall, where feasible, add a memo-
 25 rial inscription to such headstone or marker in lieu of fur-

1 nishing a memorial headstone or marker under subsection
 2 (b) for the veteran's surviving spouse.”.

3 (c) *MEMORIAL AREAS.*—Section 2403(b) of that title
 4 is amended to read as follows:

5 “(b) Under regulations prescribed by the Secretary,
 6 group memorials may be erected to honor the memory of
 7 groups of individuals referred to in subsection (a), and ap-
 8 propriate memorial headstones and markers may be erected
 9 to honor the memory of individuals referred to in subsection
 10 (a) and section 2306(b) of this title.”.

11 (d) *APPLICABILITY.*—The amendments made by sub-
 12 sections (a) and (b) shall apply to deaths occurring after
 13 the date of enactment of this Act.

14 **SEC. 4. FLEXIBILITY IN DOCKETING AND HEARING OF AP-**
 15 **PEALS BY BOARD OF VETERANS' APPEALS.**

16 (a) *POSTPONEMENT TO AFFORD HEARING.*—Sub-
 17 section (a) of section 7107 of title 38, United States Code,
 18 is amended—

19 (1) in paragraph (1), by inserting “paragraph
 20 (2) and” after “Except as provided in”;

21 (2) by redesignating paragraph (2) as para-
 22 graph (3); and

23 (3) by inserting after paragraph (1) the follow-
 24 ing new paragraph (2):

1 “(2) *A case referred to in paragraph (1) may be post-*
 2 *poned for later consideration and determination if such*
 3 *postponement is necessary to afford the appellant a hear-*
 4 *ing.*”.

5 (b) *SCHEDULING OF FIELD HEARINGS.*—Subsection
 6 (d) of that section is amended—

7 (1) in paragraph (2), by striking out “in the
 8 order” and all that follows through the end and in-
 9 serting in lieu thereof “in accordance with the place
 10 of the case on the docket under subsection (a) relative
 11 to other cases on the docket for which hearings are
 12 scheduled to be held within that area.”; and

13 (2) by striking out paragraph (3) and inserting
 14 in lieu thereof the following new paragraph (3):

15 “(3) *A hearing to be held within an area served by*
 16 *a regional office of the Department may, for cause shown,*
 17 *be advanced on motion for an earlier hearing. Any such*
 18 *motion shall set forth succinctly the grounds upon which*
 19 *it is based and may not be granted unless the case involves*
 20 *interpretation of law of general application affecting other*
 21 *claims or for other sufficient cause shown.*”.

22 (c) *APPLICABILITY.*—The amendment made by sub-
 23 section (b)(1) shall apply to requests for hearing received
 24 by the Department of Veterans Affairs on or after the date
 25 of enactment of this Act.

1 **SEC. 5. COMMENCEMENT OF PERIOD FOR NOTICES OF AP-**
 2 **PEAL WITH COURT OF VETERANS APPEALS.**

3 *Section 7266(a)(1) of title 38, United States Code, is*
 4 *amended by striking out “notice of the decision is mailed*
 5 *pursuant to section 7104(e) of this title” and inserting in*
 6 *lieu thereof “a copy of the decision is mailed or sent to the*
 7 *claimant’s authorized representative, or mailed to the*
 8 *claimant if the claimant has no authorized representative,*
 9 *pursuant to section 7104(e) of this title”.*

10 **SEC. 6. ASSESSMENT OF EFFECTIVENESS OF INSURANCE**
 11 **AND SURVIVOR BENEFITS PROGRAMS FOR**
 12 **SURVIVORS OF VETERANS WITH SERVICE-**
 13 **CONNECTED DISABILITIES.**

14 *(a) REPORT ON ASSESSMENT.—Not later than May 1,*
 15 *1999, the Secretary of Veterans Affairs shall submit to the*
 16 *Committees on Veterans’ Affairs of the Senate and the*
 17 *House of Representatives a report containing an assessment*
 18 *of the adequacy of the insurance and survivor benefits pro-*
 19 *grams of the Department of Veterans Affairs (including the*
 20 *payment of dependency and indemnity compensation under*
 21 *chapter 13 of title 38, United States Code) in meeting the*
 22 *needs of survivors of veterans with service-connected disabil-*
 23 *ities, including survivors of catastrophically disabled veter-*
 24 *ans who cared for such veterans at great personal sacrifice.*

25 *(b) REPORT ELEMENTS.—The report on the assessment*
 26 *under subsection (a) shall include the following:*

1 (1) *An identification of the characteristics that*
2 *make a disabled veteran catastrophically disabled.*

3 (2) *A statement of the number of veterans with*
4 *service-connected disabilities who participate in in-*
5 *surance programs administered by the Department.*

6 (3) *A statement of the number of survivors of*
7 *veterans with service-connected disabilities who re-*
8 *ceive dependency and indemnity compensation under*
9 *chapter 13 of title 38, United States Code.*

10 (4) *An assessment of the participation of veter-*
11 *ans with service-connected disabilities in the insur-*
12 *ance programs administered by the Department on*
13 *the effectiveness and administration of such programs.*

14 (5) *Data on veterans with service-connected dis-*
15 *abilities that are relevant to the insurance programs*
16 *administered by the Department, and an assessment*
17 *how such data might be used to better determine the*
18 *cost above standard premium rates of insuring veter-*
19 *ans with service-connected disabilities under such*
20 *programs.*

21 (6) *An analysis of various methods of accounting*
22 *and providing for the additional cost of insuring the*
23 *lives of veterans with service-connected disabilities*
24 *under the insurance programs administered by the*
25 *Department.*

1 (7) *An assessment of the adequacy of the current*
 2 *insurance programs and dependency and indemnity*
 3 *compensation programs of the Department in meeting*
 4 *the needs of survivors of severely-disabled or cata-*
 5 *strophically-disabled veterans.*

6 (8) *An analysis of various methods of meeting*
 7 *the transitional financial needs of survivors of veter-*
 8 *ans with service-connected disabilities immediately*
 9 *after the deaths of such veterans.*

10 (9) *Such recommendations as the Secretary con-*
 11 *siders appropriate regarding means of improving the*
 12 *benefits available to survivors of veterans with service-*
 13 *connected disabilities under programs administered*
 14 *by the Department.*

15 **SEC. 7. ANNUAL REPORTS ON FUNDING REQUIREMENTS OF**
 16 **DEPARTMENT OF VETERANS AFFAIRS FOR**
 17 **PARTICIPATION IN PROGRAMS TO RESPOND**
 18 **TO POTENTIAL ATTACKS WITH WEAPONS OF**
 19 **MASS DESTRUCTION.**

20 *The Secretary of Veterans Affairs shall include with*
 21 *the documents in support of each budget submitted to Con-*
 22 *gress under section 1105 of title 31, United States Code,*
 23 *for a fiscal year after fiscal year 1999 a specific request*
 24 *for funds estimated to be required by the Department of*
 25 *Veterans Affairs for the fiscal year covered by the budget*

- 1 *concerned in order to carry out its responsibilities under*
- 2 *Federal programs to respond to potential terrorist attacks*
- 3 *on the United States with weapons of mass destruction.*

Amend the title so as to read: “A Bill to amend title 38, United States Code, to improve authorities of the Secretary of Veterans Affairs relating to Medal of Honor special pension, life insurance, and burial benefits, and for other purposes.”.

Calendar No. 591

105TH CONGRESS
2D Session

S. 730

[Report No. 105-339]

A BILL

To make retroactive the entitlement of certain Medal of Honor recipients to the special pension provided for persons entered and recorded on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll.

SEPTEMBER 21, 1998

Reported with an amendment and an amendment to the title